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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/753,912	01/03/2001	Martin Lakes	3380/371	2564

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

EXAMINER

DEPUMPO, DANIEL G

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 07/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/753,912

Applicant(s)

Lakes

Examiner

Daniel G. DePumpo

Art Unit

3611



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jul 1, 2002
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above, claim(s) 6-8, 15-17, 23-25, and 30-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 9-14, 18-22, and 26-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

Art Unit: 3611

1. In view of the new grounds of rejection, not necessitated by amendment, this Office Action is non-final.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3 and 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Helm et al.

Helm discloses a crawler vehicle having the structure as claimed. As shown in fig. 1, the left and right crawler assemblies (66) are identical. Also, the left and right drive assemblies (60) are identical. Helms discloses lower works 20 and a ring gear 24 associated with conventional upper works (not shown) (col. 3, lines 10-14). The disclosure of a ring gear associated with conventional upper works is considered to constitute a teaching of rotatably mounted upper works as claimed.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3611

5. Claims 18-20 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Helm in view of Eckert.

As set forth above, Helm teaches substantially all that is claimed, but does not teach the use of a hydraulic drive assembly. Eckert, however, discloses the common use of a hydraulic drive assembly 60. The drive assemblies are interchangeable from left to right (col. 4, lines 12-14) and are therefore, considered to be identical to the same degree as claimed. It would have been obvious to modify Helm by using a hydraulic drive assembly for well known benefits such as eliminating the weight and cost of drive train associated with a direct drive system such as in Helm, and to provide design flexibility in locating the drive assembly. It would have also been obvious to use identical drive assemblies, as taught by Eckert, to eliminate the necessity for stocking different types of parts and resulting in manufacturing and maintenance economies (col. 1, lines 33-35).

6. Claims 4, 5, 13, 14, 18-22 and 26-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Helm in view of Porubcansky et al.


As set forth above, Helm teaches substantially all that is claimed, but does not teach the use of a hydraulic drive assembly and drive shafts. Porubcansky, however, discloses a hydraulic drive assembly (94, 112, 114, etc.) and drive shafts 90. As shown in fig. 3, the drive assemblies are depicted as being identical. It would have been obvious to modify Helm by using a hydraulic drive assembly for well known benefits such as eliminating the weight and cost of drive train associated with a direct drive system such as in Helm, and to provide design flexibility in

Art Unit: 3611

positioning the drive assembly. It would have also been obvious to use the system disclosed by Porubcansky to provide for easy removal of the crawlers from the car body for ease of transport.

7. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel G. DePumpo whose telephone number is (703) 308-1113.



DANIEL G. DePUMPO
PRIMARY EXAMINER

dgd

July 29, 2002